

the WOMAN PHYSICIAN'S PLAYBOOK



7 Strategies to Gain
Confidence and
Control for Your
Personal and
Professional
Success

MODULE 8: RISE ABOVE AND DEFEAT GENDER POLITICS

Transcript



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Woman Physician's Playbook: 7 Strategies to Gain Confidence and Control for Your Personal and Professional Success

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For Your Information:

We recognize that every person has different learning styles and therefore each module is accompanied by an almost word by word transcript of the video training.

Dedication: To Drs. Carol Warfield and Sagun Tuli who went into legal battle and “won.” Let’s hope we are the last of those who must.



Linda Brodsky, MD

Welcome!

Hi everybody. I am Dr. Linda Brodsky, and I am your host for the Women Physician’s Playbook module #8, strategy #6—**Rise Above and Defeat Gender Politics**. I know there are a lot of you out there that don’t believe that gender discrimination exists anymore in medicine, but it really does. Just three weeks before we were ready to record this module, the front page of the Boston Globe read in big headlines “Doctor gets seven million in gender bias suit.” This is a Harvard Hospital and is a very large settlement. She (Dr. Carol Warfield) did not have to go to trial. There was another doctor also at a Harvard Hospital a few years ago, Dr. Sagun Tulli, who sued and won her law suit against the hospital for a hostile work environment.

Unfortunately, these things do exist, and you need to know about them. For those of you who have experienced some of these issues, I want you to learn how to put these experiences into perspective. For those of you who might come upon gender discrimination or experience it, approximately 80% of women do experience some sort of gender discrimination, I hope you are going to learn how to avoid or confront the situation as it may arise.

Module Overview

Let’s start with our module overview. First, we are going to review where we have been so far and where we are going. We are going to talk about the goals of this module. There is a lot to be said about this topic. We are not going to talk about everything, but we are going to touch upon some very important issues that you need to know. First, we are going to talk about **gender equity versus gender equality**. We are going to talk about the **facts of the matter** so you can understand why I think this is important, and why we have to have this as part of our success strategies. We are going to talk about the **different approaches to gender politics**, a little bit about **problem resolution** and then, of course, your homework. I hope that you all have been doing your homework all along, as it is important, and it is going to give you the foundation you need to have a successful life and work.

7 Strategies

So far, we talked about five strategies, and one builds into the other. First is **define your all**. What it is that you need and feel so that you have everything you want in your work and your life? Number 2 is **take inventory to take control**, that is, where are you and where do you want to be? That is how you take control of your career. The third is **communicate to connect and protect**. If you are going to take control, you have to be able to **communicate** this to others. Who are the others? They are the people in your workplace. So **you master your workplace** learning about the people, the policies and the procedures. Next you are going to **negotiate your way to a better career**. We are going to **rise above and defeat gender politics**, because you are going to meet them wherever you go. Our last module is about **create work-life integration**.

Goals of the Module

What are the goals of this module? Gender politics and gender discrimination is a huge topic, and we can spend a lot of time on this. While this topic is very broad and very deep, I don't want you to think that everything that happens to you is because of gender discrimination. You don't want to see every difference through the lens of discrimination, because that does not serve us well. The first thing we are going to do is to see **what gender politics and gender discrimination looks like in medicine.**

What does it actually look like? We are going to discuss eight things that can occur that might make you think this might be gender discrimination. You are going to understand the implications when you face gender issues. **What are the implications and what can happen?** Know the **actions** that you might or might not take. We know that gender equity doesn't yet exist. So we need to go over these four steps so we can have an understanding of what might happen to us and what we might do about it. None of this constitutes legal advice, and for that you have to ask an attorney.

AMWA—American Medical Women's Association Position Paper

I thought it would really be useful to start out with the Position Paper from 2010 from the American Medical Women's Association. This organization, AMWA, advocates for women physicians and women's health. I am a member and have been a member since I was a medical student. I am also Co-Chair of their Gender Equity Task Force. Several years ago we realized that we needed a Position Paper, because gender equity was not really well defined. Here is what we wrote:

“Gender equity must be the standard in every sphere of the medical establishment as well as American society. All conduct that deviates from this standard, at every level of power and influence, is inherently unethical and unlawful and cannot be tolerated or excused.”

When we wrote this we all thought that it was almost unbelievable that we had to actually take a position. Given the fact that there has been a huge influx of women into medicine, and there has not been any relief from gender issues, since more than 80% of women have reported that they have faced or witnessed gender discrimination (this came from the American Medical Association Women Physician's Congress 2008 Survey <http://www.ama-assn.org/ama1/pub/upload/mm/19/wpc-survey-presentation.pdf>). We believe that we have to take a very firm position. I want to point out that the word we chose is equity which is not the same as equality. Equality means that everyone has the same thing, and that is not possible or even appropriate. Equity implies equal access, so we all have the same opportunities. There is a lot written about this subject equity versus equality, and if you are interested in the fine points do a search and read more in the literature about this fascinating topic.

Why is Gender Discrimination Important?

First, at its **core it is illegal**, and this is perhaps the most elusive because the laws are very difficult to enforce. They were written in the 1960's for people on an assembly line and are hard to prove in more complex work environments such as the medical field.

Gender discrimination is both **immoral and unethical**. That is all well and good. I would like to be very positive, as many organized medical societies have put it in their code of ethics. They say, well it is unethical for you to discriminate on the basis of sex. However, enforcing these codes just like enforcing the law is very difficult because there isn't a well worked out platform to adjudicate complaints, and there is no protection from retaliation. It is also bad medicine, because women physicians bring skills and values to patients.

Gender discrimination creates workforce issues. This is one of the most difficult topics to discuss. There are two questions—Do women physicians work less because they feel that the health care workplace does not welcome them? Is the not so low level of devaluation creating feelings of burnout? I think the answer to both those questions is yes. Also, you need to know that 50% of medical students enrolled today are women, and I think most of you know that by now. If the workplace does not adapt and accommodate to women, and not just adapt them to the prevailing health care workplace environment, we are going to be seeing a larger shortage of doctors. There just will not be enough doctors.

Finally, without a well-trained medical work force that is working under the best conditions possible, this is **economically disadvantage for society**. This could be enormous. We need a well-trained medical work force to keep our society working and healthy.

Real vs. Ideal: Status vs. Standard

In creating a prescription for success, we know where we are and where we want the outcome to be. Let's start with our status where we are which is weighing us down that is the real, and where we want to be that is the standard and raising up the ideal. We have used this concept before in taking control of our lives once we have defined our own all.

What is real is the status we have now and its gender discrimination. It is the unequal and inequitable treatment of any individual on the basis of sex. What we want to see is gender equity become the standard. Gender equity is the freedom from discrimination on the basis of sex in all areas of women's lives at every stage throughout their lifespan. Ideally you want to go from the status to making it the standard.

Gender Politics Has Many Forms

There are many forms of gender politics and gender discrimination. There are many ways women are devalued in medicine, and let's take you through the most common ones.

Hiring. Women have a harder time getting the jobs they want, and there may be many reasons. One is that men are more likely to be in leadership positions and do the hiring. They are more likely to know those who they hire, and more often than not it is a man. The old boy's network is still at work. I will give you a little story.

When the Chair at the Brigham & Women's Hospital left the hospital after losing a gender discrimination lawsuit, you would think he would not be able to have a chance at finding another job in neurosurgery, which was his specialty. However, that was not true. He went down to Texas at the University of Texas at Houston to work with his longtime colleague in a position of authority as Director of Residency Training. It is almost impossible to conceive that a woman who is let go for any reason would be very hard for her to get another job. The American Medical Women's Association wrote a letter or protest, and I have to say it was obviously ignored.

So, hiring is one way women are discriminated against.

Firing. Women are more likely to lose their jobs. There is a perception even for women who are single or are single mothers that women do not need to work.

As an example, there is one woman I worked with who was called into the University Department Chair's office and was told that the department was being downsized. The department was about 50% men and 50% women and was a family practice department. What did this downsizing eventually look like? Well, nine female physicians were let go and zero male physicians were let go. Not all the female physicians were let go, and by the way some of them were full time.

They might say they let go all the part timers and try to get away with the situation in that way. However, that was not what happened.

Compensation. This has received a lot of press in the last two years, and I can speak about it on a personal level.

When I was a full time faculty member at the University of Buffalo and Head of the Department of Otolaryngology for 14 years, I had risen to the top ranks of full professor with tenure. I found out, as part of a review of our residency program, that the salaries from the university and the hospital were not equal. I found that a junior male faculty colleague of mine with lower rank and less seniority and responsibilities was paid twice as much as I was by the university for his work. I had to earn a lot more through my clinical work to reach the same compensation level. I found the same thing was used at the hospital. Some of the surgeons and surgical specialists were paid up to five times more than I was being paid by the hospital for my administrative stipends. That is how I ended up in federal court suing both the university and the hospital for gender discrimination.

I am going to discuss two very large and important studies that show this is a real situation and is pervasive.

Advancement opportunities. Another client of ours applied for a job in their academic department of internal medicine as the Residency Program Director. Despite her nine years of teaching experience with excellent letters of recommendation and evaluations by the residents, there were two men looking at the same job. They had very little experience, and one actually had just graduated from his residency. The man was given the job. By the way, the program has since been closed, and I think the choice was probably not the most appropriate.

Resource allocation. During my time in academic medicine, I witnessed many forms of differential resource allocation. One of the most famous cases was actually not in medicine but was brought forward by MIT women scientists about 14 years ago. They looked around and saw that they did not have the space and resources that the men had. They went around and actually measured the lab space and counted up the resources. Unlike the hospitals and the medical schools, MIT responded very quickly and is not something you often see in academic medicine. They made sure that the women were given equal resources and has equal opportunities. So much so that ten years later the women felt that they had too much on their plates, because there were not enough of them to make things look equal. That is when equality is not necessary and you want some equity--availability of opportunity.

There was another client who came to WMDR with a complaint that when she arrived at her academic job she was only given a half a day or protected research time. There was a male with the same research expectations who was given almost two days of protected research time. Her problem was that she did not have her contract spelled out what protective research time meant. We had to work this one out, and she did end up with 1-1/2 days of protective research time.

A hostile work environment. This includes harassment, a hostile work environment and a low level of feeling that you are not wanted. You are not appreciated and treated with disrespect. One of the best examples of this is found in the case from the Brigham and Women’s Hospital in Boston, the Department of Neurosurgery, which I eluded to before where that Chairman went down to Texas.

Here, Dr. Sagun Tuli who was a seasoned neurosurgeon, a spine surgery in the middle of her career, sued and won in court for a hostile work environment for one million dollars. One instance that was cited in the court papers was that her Chair, the Chief of Neurosurgery, carried and displayed at work the sexual poses of the Karma Sutra which he carried on his PDA and showed to others without request. This and other things made it a very uncomfortable and hostile environment for Dr. Tulli.

Gender stereotyping. This is the newest and I think the most insidious form of gender discrimination. I will give you an example. When you describe a woman surgeon who is businesslike, focused and demanding, this is really a negative description. They are seen as “tough nuts to crack” or difficult. Men who are described with the same attributes of being businesslike, focused and demanding are seen in a positive fashion as admirable and dedicated to their patients. Mischaracterizing women has become a great way to impede our progress and devalue our work.

This leads me to the final one I want to talk about which is a small one and is the **small daily dose of devaluation.** Women physicians often feel that their work is not given the same value by the nurses. Nurses don’t take their orders as seriously and their colleagues who may not want to listen to them, the medical students and the residents. So you are not given the same value as the men get, and this can be very demoralizing.

When I was an attending (in academics) just seven years ago, and we would be on rounds, and I also had my fellow who was in a white coat as well who was a man, I would ask them questions, and the patients would turn to the male doctors and the male fellow for some information. I felt very devalued in that situation.

The Facts of the Matter: Vertical Segregation

Let’s talk about the facts of the matter. If you think that gender discrimination does not exist today, let’s shed some light the facts of the matter.

It is really hard for women to get to the top. Now 50% of medical students are women, and about 50% of the residents are now women too. Women are now 1/3 of all physicians, but they are only 12% of Deans, journal editors and organizational leaders. These numbers really speak for themselves. It is still hard for women to get to the top, and there have been enough women in the pipeline for more than two decades. So, the issue is where have all the women gone? This is what we call **vertical segregation**. They have gone nowhere, and there are a lot of reasons for this. Sometimes there are barriers, and sometimes they don't understand the path. They don't have anyone to sponsor them or mentor them. Many times there are just a lot of males who are making the rules and deciding who has the proper cache or credentials to become a leader.

The Facts of the Matter: Horizontal Segregation

Here are a few more facts of the matter. Let's talk about **horizontal segregation** and I think is discrimination. Women are shunted into certain specialties. Here is a chart, and you have seen this in another module which is adapted from the 2012 Physician's Foundation Survey of American Physicians http://www.physiciansfoundation.org/uploads/default/Physicians_Foundation_2012_Biennial_Survey.pdf. It shows that women tend to migrate into certain specialties which they are told are family friendly. All of them are in primary care except for OB/GYN which now seems to belong to women.

Here are the women 46% of the primary care specialties compared to 32% males with a total of 34.8. Except for OB/GYN, the men predominate in general surgery, the medical and surgical specialists and even the others. The numbers for the others looks very close to the women. That is because in here is psychiatry. If you take out psychiatry, I bet the others have a lot of men as well.

I know this is still true that women are told to go into the primary care specialties.

Two years ago I was invited to a lecture at a prominent west coast medical school. After the lecture, several of the women medical students came up to me and told me they were being discouraged from becoming surgeons because the training was too long, it was difficult, and they would not have a life or family, and I was really surprised. However, I was not that surprised, because I had similar experiences elsewhere. I found this was the case at the University of Buffalo and a few other places I had lectured. I spent a long time talking with these students and told them about my experiences and about the experiences of many other women surgeons. Of course, I did not know if I had any impact on them until a few months ago, when I received a postcard in the mail from one of them. It read: "Dear Dr. Brodsky. A few years ago you gave a talk at my medical school about discrimination in the workplace against women in medicine. You encouraged me at that talk to pursue surgery, and I want to say thank you for coming here with your story. I now believe I am going into ENT and will begin the application process this summer. Thank you" and she signed her name.

I am not saying women should not become pediatricians, psychiatrists or family practitioners, but we should be aware of subtle and sometimes not so subtle pressures that are steering us into certain specialties which may not be what we want to do in the long run. We spent a long time on this in defining your all.

More Facts of the Matter

Some of the ***facts of the matter*** were covered in some of the other modules. For those of you who did jump around, I want to make sure that you know what you are up against. According to the AMA Women Physician's Congress Survey in 2008, I told you that ***80% of women had experienced or witnessed gender discrimination***, and that is a big number.

As we just talked about, it occurs horizontally by women being pressured into certain specialties, that training is shorter and life is easier. I want to tell you this is not necessarily true. Vertically it takes us longer to get to the top leadership. When women and men faculty are hired at the same time, only 53% of women get promoted compared to 89% of the men. As you have heard before, women are only 12% of leaders in all segments of medical leadership.

According to the 2010 US Census Bureau, ***women physicians make 62 cents for every dollar a man earns***. They also pointed out that women physicians experience the largest pay gap of any professional group. This is due to both horizontal and vertical segregation and discrimination.

There are recent studies, two of them—one by LoSasso and published in Health Affairs in 2011 and one by Jaggi, et al in 2012 in JAMA. These studies have shown that women start out with almost a ***\$17,000 pay gap in their first position after residency***. They took over 8000 residents over a ten year period who graduated from a New York State residency program. They saw where they went and what specialties they went into. It didn't matter where they went, the specialties, the number of hours, full time or part time. Controlling for everything, women had a \$17,000 pay gap in their first position after residency.

In the Jaggi study, ***women in mid-career as physician researchers had a \$12,000 pay gap***.

Women are ***less likely to become partners***, investors or achieve a higher rank in a medical group or institution. I think a lot of that has to do with the partnership rules being very stringent, and they have to be liberalized to a more flexible partnership buy-in. Again, as investors in higher ranking medical groups, women may not think they have what it takes or the time that it takes. They are probably not correct in this, because once you get into these positions it seems like there is a lot of time commitment. However, there is not as much as you think.

More Facts of the Matter

It has been my experience that no matter how hard you try or how well you navigate the course, you will likely experience some form of gender discrimination. Your experience is going to be how well you recognize it, which is something we just went through, understand it and choose an appropriate action for yourself. Many times this action includes ignoring it, moving or trying to do something about it. This is where the choices come from. We have now gone over recognition and understanding. Now let's choose an action.

What Can I Do?

What can be done? We firmly believe, like in giving medical care, there are many ways to approach a problem. Almost everyone agrees in medicine that prevention or being proactive so as to avoid a bad situation is preferable to having to treat or having to act. First, I would like you to start thinking of a change in mindset from victims of gender discrimination to partners in prevention, partners in eradication. Gender discrimination is about power differentials, and power differentials are hard to erase entirely, but they can and must be lessened.

Let's listen to Alice Walker—The most common way people give up their power is by thinking they don't have any.

You have to think about what is the power that you have. You have power, and you need to cultivate it, and in this course I hope you are going to discover it and learn how to use it to your benefit.

Your "Power" Depends On Where You Are In Your Career

I want to talk about the power trajectory, because your power depends on where you are in your career. I am talking about power not as energy but power the ability to impact or change. It is a very important concept, and it makes many women uncomfortable, because women do not like to think about having power.

One place that **power comes from** and only one place, but it does come from many places, is from **accrued status**. It takes time to accrue status. To get status you have to overcome hazards which exist at every stage of your career. First, you want to get increasing power as you go up the career ladder. When you are a student, either a pre-medical or medical student, you have the least status and the least wiggle room. If you are facing gender discrimination, be very careful before you start reporting it or blowing the whistle, because you are not likely to survive it, as has been my experience with now at least three women who have come to me and have had their careers ended.

However, things may be looking up because for students, as the American Association of Medical Colleges are starting to review data and track the school and training environments for women residents and students. The next place in your career track is as a trainee, and this is residents and fellows. Even

though you have an MD degree and you think you are on your way, they can take that away from you. As a resident, you need to rely on professors who are still mostly men for guidance and training and then for recommendations for the future. This is another place you want to be very careful. Unless it is a very easy to prove situation, it could mean your future career.

Even after one becomes a full-fledged doctor, an attending physician or a practicing physician, no matter where you are in private practice, academics, military medicine or corporate medicine, you need to assess your position while you are making plans for your career advancement. As was said, almost everyone is going to encounter gender disparity, but before you act you must know where you have strength.

What Is My Best Strategy

I want to tell you about my personal decision and how I came to make the decision to go into a gender discrimination lawsuit. You might be thinking, well she sued, why is she saying that? You really have to think carefully.

In my case, I thought I had a huge practice and reasonable economic security. I had the highest academic standing up to a Chair level, and I had a lot of power in my grants and research program, but what I found out it was still a very, very tough battle. I could have been smarter before taking it on, and I did not think of all I was going to lose. For example, no one tells you that you have to separate from your place of employment, or if they did tell me I wasn't really hearing that. You rarely get the chance to make things right, and that's what I wanted to make things right. I thought this was a terrible situation. You have to be ready for a lot of retaliation. They tell you it's illegal for you to retaliate, but what they don't tell you is first you have to retaliate and then seek a remedy, and by then it is too late. What you might gain is very different than what you want. I thought I had no choice. I had status, power and resources, and I believed I could not let this situation pass without trying to correct it, because if I could not correct it who was going to stand up. I did gain some satisfaction actually through a legal grievance not my legal action. I changed the pay structure for all the medical school faculty on all four campuses of the State University of New York, and this benefited women disproportionately but not specifically, because they had a lower pay level which was not according to the contract. I also lost an academic career I had built for more than 25 years, and this has been very sad for me. We chose to stay in Buffalo and did not leave for many reasons, and one reason was my husband's work. I am now left without an academic home. Once you sue someone, that workplace is not going to be available to you without a lot of difficulty. Anywhere else you go to look for a job they are going to look at you very hard before they want to consider you for a position.

If you are facing gender discrimination, the first reaction is not “I’m going to sue, this is illegal.” You have to think about what is my best strategy.

Approach to Gender Equity

This goes back to your first success strategy of define your all, and it’s your approach to gender equity. There are three major areas that are in play, and **first is the proper evaluation of your skills**.

Start by imagining your ideal gender equitable career, and that is what you are going to aim for from the start. Then periodically you are going to seek proper evaluation of your skills and other values that you have. Make sure you account for these skills and values to your institution or organization along the way. Don’t keep them a secret to yourself. Have a yearly assessment and then decide how you are going to improve the situation. Make sure you meet with people who are in a place where they can give you salary increases. That should become part of your yearly discussion in your workplace if it is not already built into a well drawn out contract like we talked about in negotiating your way to a better career.

Remember you are valuable because you are a woman. Many women and some men prefer women physicians, so don’t sell your values short. If you want a flexible schedule, do not give up salary beyond what is fair. Do not give up promotions or a partnership. Look for ways to be flexible, and make them find ways where they can be flexible so you can be maximally part of the team but also have the freedom you need to feel comfortable in all your roles.

Secondly, make sure you **investigate your work environment carefully** before you get there. If you have choices, and I understand not everyone does because of financial, geographical or other constraints, look for a flexible female environment. We went over this. What does it look like? Are there other women, and are they happy? Do they take advantage of a flexible schedule? Do any of the men have a flexible schedule? What are the roles in the practice or in the academic department? Collect salary data from a variety of databases. The **American Association of Medical Colleges** has salary ranges for different geographic areas and specialties. One thing I want to say about this group is that they probably underestimate the real true salaries that are being given, because there is no standard way their member organizations and medical schools have to report the salaries. There is also the **Medical Group Management Association, the MGMA**, which is a group that posts salaries for people who join and what the salaries look like in group practices by geographic areas and specialties. Of course, there is the **Association of Physician Executives**. Or if you are in a public institution, that data may be available on line. You also might be able to request this through the Freedom of Information request. You need to know that there are new workplace structures emerging in all industries, and it is time that we brought them to the health care field.

The third is to **start building your support systems early**. We all need help, and seeking help is critical. Most of us are not good at this, and we talked about this before as well. Whatever environment

you are in, get to know the hierarchy, the senior partner, the Dean and the president of the hospital and have them get to know you. This way when issues or opportunities arise, you are not an unknown quantity. If there is an opportunity, you are more likely to be chosen. If there is an issue, you are less likely to be marginalized or demonized. Of course, have a strong network of family and friends outside of the workplace, because they are going to keep you grounded. After you see what really goes on and you get the lay of the land, you learn the truth.

The Truth Will Set You Free, But First It Will Piss You Off

This quote from Gloria Steinem says it all “The truth will set you free, but first it will piss you off,” because things are just not fair. Just knowing the truth is not enough. You have to get past the challenges and even more difficult get past the anger and the frustration.

Don't Get Mad—Get Smart and Act Smart!

So, don't get mad, get smart and act smart. Prevention—as we said, *investigate* a new environment fully. Make sure you talk to as many people as possible inside and outside the organization. Listen carefully to what they have to say and what they do. Is it a *family/female friendly* environment?

One of my favorite stories is when I started looking for my first job after residency training. I went to interview with a group in private practice in Buffalo. At the end of the day, this topped off with a dinner. They were talking at dinner about their club, which is the best place in town for food. This was in 1982, and they took me to their club. I had to go through a separate entrance for women. I am not kidding you! I decided that they just did not get it, and the rest of the evening I answered every question as outrageously as I could. They did ask me, “Was I planning on having more children,” and I answered of course as many as I can. At the end of the dinner when they told me they would have to search their financial conscience before making their decision, I gave them my best smile and said “of course.” I thought, “Never would I come and work for you guys!”

Before you get to any environment, investigate by asking for *the policies and procedures*, the staff by-laws, the departmental practice plan or employee handbooks. See the kind of environment you are coming to, and of course *negotiate competitively*. There are services and people with skills to help you, and please make sure that you avail yourself of these people if you are not a good negotiator, and most of us are not.

Identify your friends and allies both inside and outside of the organization and at all levels of the organization, so if you are facing problems you have already built up your friends and your allies. Make sure they know what is happening to you and get them to help participate in a solution that will work for everybody.

From day one of your career, **cultivate good habits**. What does this mean? It is how you are going to protect your career. There are three things, keep **good records**, make a **paper trail** and **examine your files often**. We talked about keeping good records in the previous module, and we are going to review it here because it is very important. We will also talk about making a paper trail and how you examine files that are kept on you. I'm sure many of you did not realize that there were such files.

Record Keeping

Let's talk about **record keeping**. Keeping good records is the most important thing you can do. You need to start before you need them, and you will need to keep this information for many reasons not just to create a CV but also when you are sitting for your boards or seeking a job, you have to be credentialed by a medical staff or apply for malpractice coverage. When things are going south, you might want to write about your experiences every day in diary form. Why? Because you never know when you are going to have to recall an incident. I am going to tell you a story in a few minutes about that.

What are these records? They are your productivity, meetings, hours worked, patients seen, operations you did, lectures you gave, meetings attended and organizations where you worked. Include anything that you did and also include any letters of complaints or compliments. I have a story that is very telling about this.

During the time I was suing the hospital, I was brought up by the medical staff for being a disruptive physician after 25 years of service in which I had won many awards. I thought this was clearly retaliatory, but by the law it wasn't, because it was technically the medical staff that brought it forward and not the hospital. One of the things that was not brought out or recognized and was hidden in the agenda was that the Chief Medical Officer of the hospital was one of the prime movers, and she was one of the main defendants in my law suit. As I was going through this "fair hearing" without true due process, that is why this process is known as Sham Peer Review because it is manipulated in many ways, I asked several of the nurses to testify on my behalf, and they all said "yes." One nurse was the former Director of the Recovery Room where my incident occurred. Right before the hearing, the nurses came to me and said, we are sorry we cannot do this. We would really like to but are afraid we would lose our jobs. So, clearly someone had gotten to them. Interestingly, one of the nurses who did testify against me said, and I quote from the transcript "I have never heard anyone say anything nice about me." It was several years after the incident, and I was cleaning out my files, I found an incredibly complimentary letter about me written by that nurse. I can't tell you how much I wish I had that letter to present to the panel then. So, keep all these compliments and complaints about you. You never know when you are going to need them.

Where do you want to keep these records? You can try creating a calendar. You can use the electronic calendars, diaries or paper files, but make sure your records are not accessible to people at work. Keep it under a separate account that is not on your work account and is not accessible through a work computer.

How do you keep these records? Make them detailed and write the issues down—the dates, times, places, witnesses and the quotes, even if somebody says something. If you have a witness that can corroborate what happened, make sure you follow-up with a written confirmation that you spoke to them, and that they were there and what happened just as we talked about in a previous module. Then email to yourself any type of narrative which has the time and date on it and is a real legal document. That is how you are going to keep this with your records. You can do this with compliments also.

Make a Paper Trail

We need to create a paper trail. Follow-up every important meeting or call with an email. How do you do this? This is my typical outline. First, you send a letter and acknowledge and say something like:

“Thank you for meeting (or speaking) with me on January 15th, 2011 in your office at your request.”

You are going to outline the discussion, and you might say,

“I was pleased to discuss my career progress and in particular the steps I need to reach my goal of becoming a partner or becoming a tenured professor in this organization.”

Then I want you to list the action items and a timetable. You might say,

“I am encouraged that you believe my work quality and productivity are in line with the goals of the department and organization, and that you agree that taking parental leave will not affect my goals.”

Add at the end to this very important disclaimer:

“If you do not agree, please let me know immediately.”

This puts you in the driver’s seat and helps them understand that you mean business.

If you need to **make a complaint, do it in writing** and make sure you **follow the process** in your institution and make it dispassionate—keep to the facts.

Make a Paper Trail

When you make a paper trail, you are always going to **follow the policies and procedures**. Find out how complaints are handled in your organization, and you find out through the policies and procedures.

If you find yourself with a bothersome communication like a negative evaluation and you may be disciplined, don't reply right away. Take your time, and make sure you consult an advisor, your mentor, an advocate or even a lawyer, and keep your response factual and dispassionate. Be heedful if there are any deadlines, because deadlines can be your enemy. Again, keep your records offsite, safe and organized, so you don't misplace letters like the one I told you about.

Examine Your Records and Files

Finally, examine your records and files regularly. Yes, your parents are right, there is a permanent record! There is a medical student file, resident file, medical staff file, departmental file, Department of Health and the Office of Medical Conduct. There are a lot of files. In order to get them, you have to know your rights about the records. Some of them are available to you.

You should **review your records** especially in your department and in your hospital medical staff office. Review them **at least yearly**, and see what is being put into them. Request and keep copies if you are legally entitled. This varies from state to state, so check the website of your state's Attorney General's office, and you can request for production of documents.

WARNING!

Here is where I want to make a warning. Going beyond the investigative regulatory stage, the time when you are going to bring forward your concerns in a friendly way, you are getting into dangerous territory. You are going to be taking risks, so please be careful. You have made some claims and put them in writing. So, be ready for anything, because anything can happen and will happen. Again, I want to make this disclaimer, I am not an attorney, and nothing here will constitute legal advice. Having been through this process, I want you to know what it looks like, what it feels like and what you might expect.

Internal, Not Informal, Resolution

If you do make a complaint, you have to start with the internal processes that are available to you. These are mandated by gender equity law. You have to **exhaust all administrative remedies** in your institution.

If you have gotten to that point where you have exhausted all the remedies, talk with knowledgeable legal counsel, an attorney who **specializes in labor law and who might be knowledgeable about health care laws**.

In larger institutions, you might go to the **Offices of Equity and Diversity or the Office of Human Resources**. This is an internal informal attempt at resolution, but it really is not informal, because your job and your career may be on the line. Don't be misled that sitting down with someone at the Office of Equity is not going to come back and bite you later on. Informal resolution should be witnessed,

recorded and followed up with a written communication. There is a defined process for how these informal hearings or informal resolutions should be done. So, follow their process and procedures meticulously, and make sure you follow them carefully. I have to say unfortunately even though it is an informal action and technically protected by the law, even an informal action will result in escalation of conflict and retaliation, so be prepared.

Legal Action: The Court of Last Resort

If you get nowhere through this informal action or informal attempt at resolution, you might have to take legal action. I cannot stress this enough, it should be the court of last resort. I have not met anyone who sued and came out happy that the time and money they spent was well spent.

If you think you have no choice, **get good legal advice and chose carefully**. Make sure you understand the process, what the steps are and the timetable which is a very long timetable. What it will cost, what you are going to risk and what you can reasonably expect to recover? It is complicated, and it is best to get this written down.

There are **labor attorneys for employees**, and you want a labor attorney. There is the National Employment Lawyers Association NELA. I am not recommending them or endorsing them, but they might be a resource for you.

Your first step is going to be to file a complaint with the **Equal Employment Opportunity Commission or the EEOC**. This is a place where you need to get “permission” to go to court over gender equity issues. They have up to 180 days to take your complaint and decide whether or not they are going to give you a right to sue letter. Sometimes they tell you there is no merit in your complaint, but that doesn’t mean you can’t go to court. Extremely rarely they take on the case because it is a landmark case. In those 180 days, there is time for delay, time to destroy records and time to retaliate. I think it is a very unfair system because it does delay the process. In my case, it gave them time to destroy the records, and I felt I had experienced retaliation as soon as I brought up this issue of gender equity.

Be Prepared for Retaliation

Be prepared for retaliation. One form it might come in is Sham Peer Review, and I will just talk about that today, but there are a lot of others things. You might be demoted, you might not be given access to the resources you need, and you could get a bad schedule. There is a lot ways you can find yourself being retaliated against.

One of the worst ways is to become a **targeted physician**, and this can become a career killer. You are looked at as a troublemaker, and everything you do is going to be highly scrutinized. They are going to find a way to bring you up on some charges. As I said before, you may be suing the hospital or university for gender discrimination, but it is the medical staff that can bring you up for being a disruptive physician. So, the retaliation laws don’t apply to them. Just to repeat, these laws are

remedies, so you have to prove if you are retaliated against that the action materially affected your income and your ability to practice in a very concrete way. It's difficult and complicated, and you have to understand what constitutes retaliation.

Let's say you are a targeted physician and you were brought up to the medical staff. You may go through a Shamp Peer Review process, and any woman who goes through this is mischaracterized and mislabeled as crazy or having a psychological problem. Almost always the punishment includes anger management and seeing a psychiatrist. It can also lead to loss of a job, your hospital privileges and actually the loss of your career. In my case I received a 30 day suspension, and this did not go on the national practitioner databank, but it really felt terrible. I can tell you it was one of the most unpleasant things I ever had to deal with.

Legal Action: The Court of Last Resort

The unfortunate realities are that you should not "piss into the well from which you might have to drink." In my opinion, if you are going to consider any legal action leave before you bring it forward.

You might recover money or your job, maybe there might be a workplace change, some emotional damages and money, but it is not pleasant. You are not going to make huge changes. Most times people end up settling, and a settlement means just that. You settle for less than you really wanted or deserved. Going to court is almost prohibitively expensive, and in some cases it can run more than a million dollars. Few, if any, lawyers are going to take a case of labor law on contingency, as there are actually limits on how much you can recover because you can only go so far back in history, especially if you are claiming equal pay violations.

As I said before, retaliation is not legal, but the laws are not protective. You could lose your position as happened to me, you could work in a hostile work environment which I felt and still feel to this day, and you can lose your reputation.

Culture Change vs. Legal Change

I advocate for culture change not legal change. My experience has taught me that legal solutions are not solutions at all. What I lost compared to what I won was not equal, not fungible and not interchangeable. I think the laws are unenforceable. I thought I was going to make "them" change their ways, and I am sorry to say it did not occur that way.

Gender equity will not be realized by unenforceable laws. I think it is going to be created by those who value women physicians, and we have to be there showing our values. It's going to be created when a new standard is put into play and we abandon male metrics. Until that time comes, and I don't see it happening any time soon, women have to be aware and prepare for gender politics and defeat them before they get out of hand. A change of healthcare culture must supplant ineffective and unenforceable laws.

Take-Home Messages

Some take home messages. **Gender equity is an ideal that can be reached**, but it is going to take a lot of hard work on our part and engaging men to help us.

Be proactive. You can build and you can find your ideal workplace if you know what it is, and that is the part where you have to define your all.

Build supportive networks wherever you go, and if you get into a leadership position make sure you are aware of the barriers that women face.

Keep **good records**, and create a **paper trail**.

Think very carefully before taking action—legal or otherwise.

Stay current through WMDR on our website. Keep abreast of the issues of women in medicine through **joining women's medical organizations** such as the American Medical Women's Association, the Association of Women Surgeons, the AMA Women's Physician's Congress, Women in Otolaryngology and a whole host of women in medicine organizations.

This is really everyone's concern not just people who are affected by gender politics. As Anne Frank said, "**How wonderful it is that nobody need wait a single moment before starting to change the world.**" Be the change you want to accomplish, and that really means all of us.

Next Steps: Homework

Final steps—homework.

- **Review the eight forms of gender discrimination** and think about how much any of them have impacted you or someone you know well.
- If you haven't joined a **women physician's organization**, find one in the area of your interest or join AMWA. This is the first step to helping each other.
- If you have **serious concerns** about how you are being treated or paid, **start keeping a record and start thinking about how you can best get relief.**

Be honest with yourself and others. Go write it down!

Congratulations!

Once again, congratulations. You are getting near the end of our playbook. Rise above and defeat gender politics is a really tough strategy, and we just scratched the surface.

Next, we are going to tackle the most common concern of women physicians—*How do we create work-life integration?* I hope that you are going to continue with the discussion and comments below, and thanks again for joining us at WMDR, where we help women physicians create clarity, build confidence and take control for their personal and professional success.